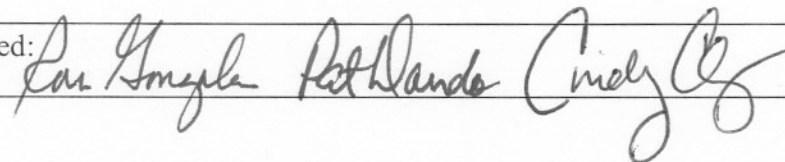




Memorandum

TO: City Council**FROM:** Mayor Ron Gonzales
Vice Mayor Dando,
Councilmember Chavez**SUBJECT:** Amendment to the agreement with
Norcal for Recycle Plus services**DATE:** September 16, 2004

Approved: _____



Date: _____

9/16/04

RECOMMENDATION

Adopt a resolution, authorizing the City Manager and City Attorney to negotiate and execute an amendment to the agreement between the City and Norcal Waste Systems of San Jose, Inc., for Recycle Plus Integrated Waste Management Services. Amendment to include payment for additional labor costs, contribution to a recycling characterization study, an e-scrap collection and processing program, and bins for 10 additional annual neighborhood cleanups.

BACKGROUND

In 2000, the Environmental Services Department recommended new vendors for the City's Recycle Plus system to the City Council. At the time, staff lauded the savings of millions of dollars to the residents of San Jose as the major benefit of a competitive request-for-proposals process.

Cost savings were an important factor in the Council's decision, but Council also gave specific direction that RFP respondents were required to provide "worker retention" guarantees to the employees of our preexisting vendors and to certify that there would be "labor peace" once new vendors took over operations. Council felt strongly that the successful transition to new vendors would only be achieved if workers did not lose their jobs and potential work stoppages in the future would not affect garbage and recycling pick-up for our residents.

Norcal, the least-cost proposer, had stated that it would conform to the City's requirement of worker retention in its hiring of employees through its subcontractor California Waste Systems. The company also stated that CWS could insure labor peace, and it provided an existing contract between CWS and ILWU (Longshoremen) for CWS recycling facilities in the East Bay as proof.

Shortly before the City Council voted on potential haulers in 2000, it was brought to the Mayor's office's attention that there was a potential union jurisdictional problem with the Norcal proposal. The workers who needed to be retained were working for Waste Management and were governed by a Teamsters collective bargaining agreement. It was thought at the time that this jurisdictional issue could be easily resolved during the period that the contract was being negotiated.

However, it soon became clear that the situation was more complex. After Council approval, the Mayor's office learned that the workers to be retained from Waste Management would be expected to change unions. It was then learned that this would mean the retained workers would be taking a pay cut. This would be untenable for vendor, workers, the unions, and the City because the result could not meet the Council's desire to have both worker retention and labor peace. To conform to Council direction, the Mayor's office convened a meeting between Norcal and the leadership of the Teamsters local and a representative of the Central Labor Council to identify solutions of the jurisdictional issue. As a result, Norcal agreed to work with CWS and with the Teamsters for the workers to be retained. Eventually the jurisdictional issue was resolved with a neutrality agreement that CWS signed with the Teamsters and the Teamsters were selected by the workers to maintain jurisdiction.

Negotiations between the service providers and the union ran into problems. In order to prevent disruptions to garbage and recycling collection for our residents, the Mayor's office was asked to step in and help. First, Norcal and the Teamsters found themselves at impasse even with the services of a labor mediator. Then, CWS and the Teamsters then began to negotiate a new wage and benefit contract. Those negotiations eventually broke down too. The Mayor's office successfully mediated both conflicts.

Upon our successful conclusion of the labor dispute, the economic impact of the union jurisdictional dispute had to be dealt with. The CWS subcontract with Norcal had anticipated wage rates specified under the ILWU contract. The new Teamster contract was for higher wages. The Mayor's office told Norcal to request a contract amendment from the City and that he would recommend to the City Council its approval since these labor costs were clearly unanticipated within the proposal that Norcal made to the City in 2000. Also, since then the City has been working to verify that the funds would indeed go toward those increased labor costs being borne by CWS. This was finally verified by CWS and Norcal this spring.

Based on discussions with the City Manager's Office and the City Attorney's Office, Norcal has agreed to offer the City some additional considerations for the higher costs of the agreement. These include Norcal's agreement to fund up to \$100,000 for a recycling material characterization study, operate an e-scrap collection and processing program, and provide bins for 10 additional annual neighborhood clean-ups through June 2007.

As outlined in the attached memorandum from the Administration, staff has reviewed the amendment request and compared the proposed increase in costs to those proposed by other

haulers in response to the Recycle Plus RFP. This comparison shows that Norcal's costs, including the additions from the amendment request, will still be lower than those proposed by GreenTeam and Waste Management for the same services in Districts A and C.

The higher costs will not increase rates for our residents, and the revised agreement still maintains the dramatically less expensive service delivery compared to all other proposers from 2000. With this amendment, the cost per household for Norcal recycling and processing services is \$1.39 compared to the \$5.27 cost per household for GreenTeam, the City's other vendor.

Although the City Council is not required by its original contract to approve an amendment to Norcal's agreement, there is a legitimate business case to be made.

- First, settling the labor issues and establishing a better wage for the sorters at the recycling facility is beneficial to the effective delivery of services to San Jose residents.
- Second, we have successfully prevented any work stoppage by avoiding a conflict between Teamsters and ILWU.
- Third, as mentioned above, the overall cost of the proposed amended agreement would remain below the proposed costs of GreenTeam and Waste Management for the same services.

Staff conducted a general review of the added costs and determined that the costs appear to be the amount that would be needed to cover the difference in wages paid under the Longshoremen's agreement and the Teamster's agreement.

Approval of this amendment will finally consummate a lengthy effort by many parties to achieve the City Council's goal for labor peace, fair treatment for workers, smooth operations, and cost-effective service. Our residents will not face disruption in garbage pick-up, workers will not be displaced adding to local unemployment, and our services are provided at the lowest possible cost.

COORDINATION

This memorandum has been coordinated with the Office of the City Attorney and the City Manager's Office.

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